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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-010, C-570-011]

Crystalline Silicon Photovoltaic Products from the People's Republic of China: Preliminary Results of Changed Circumstances Reviews, and Intent to Revoke Antidumping and Countervailing Duty Orders in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on a request from Maodi Solar Technology (Dongguan) Co., Ltd. (Maodi Solar), the Department of Commerce (Commerce) preliminarily determines that the antidumping duty (AD) and countervailing duty (CVD) orders on crystalline silicon photovoltaic products (solar products) from the People's Republic of China (China) shall be revoked, in part, with respect to certain off-grid portable small panels. Commerce invites interested parties to comment on these preliminary results.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Kathryn Turlo, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3875.

SUPPLEMENTARY INFORMATION

Background

On February 18, 2015, Commerce published AD and CVD orders on solar products from China.¹ On June 17, 2020, Maodi Solar, an exporter of subject merchandise, requested that

¹ See *Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 FR 8592 (February 18, 2015) (*Orders*).

Commerce conduct changed circumstances reviews to revoke the *Orders* with respect to certain off-grid portable small panels, pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216(b).² On July 13, 2020, SunPower Manufacturing Oregon, LLC (SunPower), a domestic producer of the domestic like product, submitted a letter stating that it took no position regarding the partial revocation proposed by Maodi Solar.³ We received no other comments regarding Maodi Solar's request.

On July 28, 2020, Commerce published the *Initiation Notice* of the requested changed circumstances reviews.⁴ As we explained in the *Initiation Notice*, we interpreted SunPower's statement of "no position" to mean that it does not oppose the partial revocation request.⁵ However, because SunPower did not indicate whether it accounts for substantially all of the domestic production of solar products, in the *Initiation Notice* we invited interested parties to submit comments regarding industry support for the potential revocation, in part, as well as comments and/or factual information regarding the changed circumstances reviews.⁶ On August 7, 2020, Maodi Solar submitted comments stating that if Commerce receives no comments regarding industry support or no comments from the domestic industry opposing the changed circumstances reviews, revocation of the *Orders*, in part, is warranted.⁷ We received no other comments regarding these changed circumstances reviews.

² See Maodi Solar's Letter, "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China (A-570-010; C-570-011): Maodi Solar's Request for Changed Circumstances Review," dated June 17, 2020 (Maodi Solar CCR Request).

³ See SunPower's Letter, "Crystalline Silicon Photovoltaic Products from the People's Republic of China: Comments on Maodi Solar's Request for Changed Circumstances Review," dated July 13, 2020.

⁴ See *Crystalline Silicon Photovoltaic Products from the People's Republic of China: Notice of Initiation of Changed Circumstances Reviews, and Consideration of Revocation of the Antidumping and Countervailing Duty Orders in Part*, 85 FR 45373 (July 28, 2020) (*Initiation Notice*).

⁵ *Id.*, 85 FR at 45375.

⁶ *Id.* (inviting interested parties to submit comments within ten days after publication and submit rebuttal comments within seven days thereafter).

⁷ See Maodi Solar's Letter, "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China (A-570-010; C-570-011): Maodi Solar's Comments on Initiation of Changed Circumstances Review," dated August 7, 2020 (Maodi Solar Comments).

Scope of the *Orders*

The merchandise covered by these orders is modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials. For purposes of these orders, subject merchandise includes modules, laminates and/or panels assembled in China consisting of crystalline silicon photovoltaic cells produced in a customs territory other than China.

Subject merchandise includes modules, laminates and/or panels assembled in China consisting of crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Excluded from the scope of these orders are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS). Also excluded from the scope of these orders are modules, laminates and/or panels assembled in China, consisting of crystalline silicon photovoltaic cells, not exceeding 10,000 mm² in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cells. Where more than one module, laminate and/or panel is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all modules, laminates and/or panels that are integrated into the consumer good.

Further, also excluded from the scope of these orders are any products covered by the existing AD and CVD orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, laminates and/or panels, from China.⁸

Additionally, excluded from the scope of these orders are solar panels that are: (1) less than 300,000 mm² in surface area; (2) less than 27.1 watts in power; (3) coated across their entire surface with a polyurethane doming resin; and (4) joined to a battery charging and maintaining unit (which is an acrylonitrile butadiene styrene (ABS) box that incorporates a light emitting diode (LED)) by coated wires that include a connector to permit the incorporation of an extension cable. The battery charging and maintaining unit utilizes high-frequency triangular pulse waveforms designed to maintain and extend the life of batteries through the reduction of lead sulfate crystals. The above-described battery charging and maintaining unit is currently available under the registered trademark “SolarPulse.”

Merchandise covered by these orders is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6015, 8541.40.6020, 8541.40.6030, 8541.40.6035 and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of these orders is dispositive.⁹

Scope of Changed Circumstances Reviews

⁸ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 77 FR 73018 (December 7, 2012); see also *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Countervailing Duty Order*, 77 FR 73017 (December 7, 2012).

⁹ See the *Orders*.

Maodi Solar proposes that the *Orders* be revoked, in part, with respect to certain off-grid portable small panels. Specifically, Maodi Solar proposes revoking the *Orders* with respect to the solar panels described below:¹⁰

(1) Off-grid CSPV panels in rigid form with a glass cover, with the following characteristics:

- (A) a total power output of 100 watts or less per panel;
- (B) a maximum surface area of 8,000 cm² per panel;
- (C) do not include a built-in inverter;
- (D) must include a permanently connected wire that terminates in a male barrel connector, or, a two-port rectangular connector with two pins in square housings of different colors, or, an Anderson connector;
- (E) must be in individual retail packaging (for purposes of this provisions, retail packaging typically includes graphics, the product name, its description and/or features, and foam for transport)

(2) Off-grid CSPV panels in rigid form without a glass cover, with the following characteristics:

- (A) a total power output of 100 watts or less per panel;
- (B) a maximum surface area of 8,000 cm² per panel;
- (C) do not include a built-in inverter;
- (D) each panel is
 - 1. permanently integrated into a consumer good;
 - 2. encased in a laminated material without stitching, or
 - 3. has all of the following characteristics: (i) The panel is encased in sewn fabric with visible stitching; (ii) includes a storage pocket; and, (iii) includes (a) a wire that terminates in a female USB-A connector; or, (b) a junction box which includes a female USB-A connector.

Preliminary Results of Changed Circumstances Review, and Intent to Revoke the *Orders* in Part

Pursuant to section 751(d)(1) of the Act, and 19 CFR 351.222(g), Commerce may revoke an order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 782(h)(2) of the Act gives Commerce authority to revoke an order if producers accounting for substantially all of the production of the domestic like product have expressed a

¹⁰ See Maodi Solar CCR Request.

lack of interest in the order. Section 351.222(g) Commerce's regulations provides that Commerce will conduct a changed circumstances review under 19 CFR 351.216, and may revoke an order, in whole or in part, if it concludes that (1) producers accounting for substantially all of the production of the domestic like product to which the order pertains have expressed a lack of interest in the relief provided by the order, in whole or in part; or (2) if other changed circumstances sufficient to warrant revocation exist. Both the Act and Commerce's regulations require that in order for Commerce to revoke an order, in whole or in part, "substantially all" domestic producers must express a lack of interest in the order.¹¹ In its administrative practice, Commerce has interpreted "substantially all" to mean producers accounting for at least 85 percent of the total U.S. production of the domestic like product covered by the order.¹²

Commerce's regulations do not specify a deadline for the issuance of the preliminary results of a changed circumstances review, but provide that Commerce will issue the final results of review within 270 days after the date on which the changed circumstances review is initiated.¹³ Commerce did not issue a combined notice of initiation and preliminary results because, as discussed above, no party had indicated whether SunPower accounts for substantially all domestic production of solar product.¹⁴ Thus, Commerce did not determine in the *Initiation Notice* that producers accounting for substantially all of the production of the domestic like product lacked interest in the continued application of the *Orders* as to the solar products under consideration here. Further, Commerce requested that interested parties comment on the issue of domestic

¹¹ See 782(h) of the Act and 19 CFR 351.222(g).

¹² See, e.g., *Certain Cased Pencils from the People's Republic of China: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review, and Intent To Revoke Order in Part*, 77 FR 42276 (July 18, 2012), unchanged in *Certain Cased Pencils from the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review, and Determination To Revoke Order, in Part*, 77 FR 53176 (August 31, 2012).

¹³ See 19 CFR 351.216(e).

¹⁴ See *Initiation Notice*.

industry support for a potential partial revocation of the *Orders*.¹⁵ As discussed above, although Maodi Solar submitted comments in response to the *Initiation Notice*, it did not comment on whether it or SunPower account for substantially all domestic production of solar products.¹⁶ Commerce therefore received no comments on industry support. As a result, we find that the domestic industry has expressed no opposition with respect to the proposed revocation, in part, of the order.

As noted in the *Initiation Notice*, Maodi Solar requested revocation of the *Orders*, in part, and supported its request. In light of Maodi Solar's request, SunPower's lack of comments regarding the scope exclusion language proposed by Maodi Solar, and the absence of any comments from the domestic industry otherwise opposing these changed circumstances reviews, we preliminarily conclude that changed circumstances warrant revocation of the *Orders*, in part, because the producers accounting for substantially all of the production of the domestic like product to which the *Orders* pertain lack interest in the relief provided by the *Orders* with respect to the particular solar products described above. We will consider comments from interested parties on these preliminary results before issuing the final results of these reviews.

Accordingly, we are notifying the public of our intent to revoke the *Orders*, in part. We intend to carry out this revocation by including the following exclusion language in the scope of each of the *Orders*:¹⁷

Excluded from the scope of these orders are:

(1) Off-grid CSPV panels in rigid form with a glass cover, with the following characteristics:

- (A) a total power output of 100 watts or less per panel;
- (B) a maximum surface area of 8,000 cm² per panel;
- (C) do not include a built-in inverter;

¹⁵ *Id.*

¹⁶ See Maodi Solar Comments.

¹⁷ See Maodi Solar CCR Request.

- (D) must include a permanently connected wire that terminates in a male barrel connector, or, a two-port rectangular connector with two pins in square housings of different colors, or, an Anderson connector;
- (E) must be in individual retail packaging (for purposes of this provisions, retail packaging typically includes graphics, the product name, its description and/or features, and foam for transport)

(2) Off-grid CSPV panels in rigid form without a glass cover, with the following characteristics:

- (A) a total power output of 100 watts or less per panel;
- (B) a maximum surface area of 8,000 cm² per panel;
- (C) do not include a built-in inverter;
- (D) each panel is
 - 1. permanently integrated into a consumer good;
 - 2. encased in a laminated material without stitching, or
 - 3. has all of the following characteristics: (i) The panel is encased in sewn fabric with visible stitching; (ii) includes a storage pocket; and, (iii) includes (a) a wire that terminates in a female USB-A connector; or, (b) a junction box which includes a female USB-A connector.

If we make a final determination to revoke the *Orders* in part, then Commerce will apply this determination to each order as follows. Because we have completed administrative reviews of the *Orders*, the partial revocation will be retroactively applied to unliquidated entries of merchandise subject to the changed circumstances reviews that were entered or withdrawn from warehouse, for consumption, on or after the day following the last day of the period covered by the most recently completed administrative review of the *Orders*, and which are not covered by automatic liquidation. The most recently completed administrative review of the AD order (A-570-010) was completed on June 14, 2019, and covered February 1, 2017 through January 31, 2018.¹⁸ Therefore, under this scenario, the partial revocation for merchandise subject to the AD order would be applied retroactively to unliquidated entries of merchandise entered or withdrawn from warehouse, for consumption, on or after February 1, 2018. The most recently completed

¹⁸ See *Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 27764 (June 14, 2019).

administrative review of the CVD order (C-570-011) was completed on October 23, 2019, and covered January 1, 2017 through December 31, 2017.¹⁹ Therefore, the partial revocation for merchandise subject to the CVD order would be applied retroactively to unliquidated entries of merchandise entered or withdrawn from warehouse, for consumption, on or after January 1, 2018, as applicable.

Public Comment

Interested parties are invited to comment on these preliminary results in accordance with 19 CFR 351.309(c)(1)(ii). Written comments may be submitted no later than 14 days after the date of publication of these preliminary results. Rebuttals to written comments, limited to issues raised in such comments, may be filed no later than seven days after the due date for comments. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.²⁰ All submissions must be filed electronically using Enforcement and Compliance's AD and CVD Centralized Electronic Service System (ACCESS).²¹ An electronically filed document must be received successfully in its entirety by ACCESS, by 5 p.m. Eastern Time on the due dates set forth in this notice.

Final Results of the Changed Circumstances Reviews

Commerce intends to issue the final results of these changed circumstances reviews no later than 270 days after the date on which these reviews were initiated. If, in the final results of these reviews, Commerce continues to determine that changed circumstances warrant the revocation of the *Orders* in part, we will instruct U.S. Customs and Border Protection (CBP) to

¹⁹ See *Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2017*, 84 FR 56765 (October 23, 2019).

²⁰ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

²¹ See generally 19 CFR 351.303.

liquidate without regard to AD or CVD duties, and to refund any estimated AD or CVD duties, on all unliquidated entries of the merchandise covered by the revocation that are not covered by the final results of completed administrative reviews or automatic liquidation. The current requirement for cash deposits of estimated AD and CVD duties on all entries of subject merchandise will continue unless they are modified pursuant to the final results of these changed circumstances reviews.

Notification to Interested Parties

This initiation notice is published in accordance with section 751(b)(1) of the Act and 19 CFR 351.221(b)(1).

Dated: August 27, 2020.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

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